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HOUSE.....No. 9.

Commonwealth of Massachusetts.

To the House of Representatives :

In compliance with the request of the House of Representatives, I transmit to them a copy of all the correspondence between "the Governor, or authorities of the State of Virginia," and "the Executive Department" of this Commonwealth, "touching the case of George Latimer." As there is no pending application or "demand from that State for the arrest of said Latimer, or any other citizen or inhabitant of this State," I perceive no reason for withholding the correspondence, or any part of it.

MARCUS MORTON.

COUNCIL CHAMBER, }
January 24, 1843. }

THE STATE OF VIRGINIA

To the Executive Authority of the State of Massachusetts :

Whereas it appears by the annexed papers, which are hereby certified as authentic, that George Latimer, a man of color, is a fugitive from justice in this State, charged with burglary and felony, and that he hath fled to the State of Massachusetts :

Now therefore, I, John M. Gregory, Lieutenant Governor of the State of Virginia, acting as Governor, according to the provisions of the constitution of the said State—have thought proper, pursuant to the provisions of the constitution and laws of the United States, in such case made and provided, to demand the surrender of the said George Latimer, to Elias Guy, who is hereby appointed the agent to receive and convey him to the State of Virginia, there to be dealt with according to law.

Given under my hand as Lieutenant Governor, acting as Governor of the State of Virginia, as aforesaid, and under the Great Seal of the State, at Richmond, the seventh day of December, A. D. eighteen hundred and forty-two, and sixty-seventh year of the Commonwealth.

By the Lieutenant Governor,

JOHN M. GREGORY.

WILLIAM H. RICHARDSON,

Secretary of Commonwealth, and Keeper of the Seal.

STATE OF VIRGINIA.

BOROUGH OF NORFOLK. SC.

Be it known that on this third day of December, in the year eighteen hundred and forty-two, in the said Borough of Nor-

folk, personally appeared before me, Miles King, mayor of the said borough of Norfolk, James B. Gray, merchant, residing therein, and made oath before me on the Holy Bible, that on or about the twenty-fourth of September, eighteen hundred and forty-two, his store-house on Wide Water street, in the said borough, was burglariously and feloniously broken open and entered in the night-time, and about twenty dollars in cash, and sundry articles of property to him belonging, taken, stolen and carried away from said store:—that among the articles so stolen, were some pocket-books and hair-brushes. That his said store had been broken open and entered burglariously and feloniously three other times previous, and since the first day of December, eighteen hundred and forty-one:—that it was first broken and entered as aforesaid, on or about the first day of January, eighteen hundred and forty-two, at which time there were taken, stolen and carried away from his said store-house, about eighty dollars in money, and various other articles of value belonging to him, amongst which were a watch-key and pencil-case of silver, of the value of two dollars, and which he recollects seeing in his store in the place where they were usually deposited after he had closed his store, on the night in which it was so as aforesaid, first broken and entered:—that shortly after the burglary and larceny committed on or about the twenty-fourth of September, eighteen hundred and forty-two, he charged a colored man named George Latimer, then held to service and labor with him, and owned by him as his slave, with the commission of the said last-mentioned burglary and larceny, soon after which the said George Latimer absconded, and escaped to the State of Massachusetts, and city of Boston, where the affiant believes the said George Latimer now is. After his escape the affiant searched the room in which said George Latimer slept, and there found, in the drawer of a table belonging to said George Latimer, two of the pocket-books and one of the hair-brushes which had been stolen, when the said store-house was so broken and entered, on or about the twenty-fourth of September, eighteen hundred and forty-two.

The affiant further stated on his oath as aforesaid, that the

said George Latimer was searched in Boston since his escape from Virginia, and there were found on his person and taken from his possession, the watch-key and silver pencil-case, which were stolen from his store-house when it was broken and entered as aforesaid, on or about the first day of January, eighteen hundred and forty-two.

And the affiant on his oath states that he does verily believe, and doth charge, that the said George Latimer did, in the night-time, break open and enter burglariously and feloniously, his said store-house, on or about the twenty-fourth day of September, eighteen hundred and forty-two, and steal therefrom about twenty dollars in money belonging to said affiant, James B. Gray, and various articles of the property of the said affiant, of the value of about fifteen dollars, and among other things, sundry pocket-books and hair-brushes. And that he further believes and charges, that the said George Latimer did, in the night-time, burglariously and feloniously enter and break his store-house aforesaid, on or about the first day of January, eighteen hundred and forty-two, and did then and there steal, take and carry away from said store-house, about eighty dollars in money belonging to affiant, and various articles of his property of the value of at least ten or twelve dollars, and among the property so stolen, was the silver pencil-case and watch-key aforesaid.

JAMES B. GRAY.

The above affidavit was subscribed and sworn to by said James B. Gray, before me, Miles King, mayor of said Borough of Norfolk and State of Virginia, at the time and place, and verified in the manner stated in the caption of said affidavit.

In testimony of which, I, Miles King, mayor, aforesaid, [Seal.] have subscribed my name and affixed my seal of office hereto, the day and year first aforesaid.

M. KING, *Mayor*.

STATE OF VIRGINIA.

NORFOLK BOROUGH, to wit :

To Elias Guy or any other constable of the borough of Norfolk :

Whereas, James B. Gray, of the borough of Norfolk aforesaid, merchant, hath this day made information and complaint upon oath by his affidavit, duly sworn and subscribed before me, Miles King, mayor of the said borough of Norfolk, in the State of Virginia, that on or about the first day of January, eighteen hundred and forty-two, in the night, the store-house of him, the said James B. Gray, on Wide Water street, in the borough of Norfolk aforesaid, was feloniously and burglariously broken open, and about eighty dollars in money and various articles of the value of ten or twelve dollars, amongst them a silver pencil-case and watch-key of the value of about two dollars, of the goods and chattels of him, the said James B. Gray, feloniously and burglariously stolen, taken and carried away from thence, and that he hath just cause to suspect, and doth suspect and verily believe, that George Latimer, a colored man, formerly held to service and labor with him, and owned by him as his slave, the said felony and burglary did commit: These are, therefore, in the name of the Commonwealth, to command and require you, that immediately upon sight hereof, you do apprehend the said George Latimer and bring him before me or some alderman of this borough, to answer the premises, and to be further dealt with according to law.

Given under my hand and seal, this third day of December, eighteen hundred and forty-two.

M. KING, *Mayor*. [Seal.]

The within-named George Latimer not found, and I am informed and have reason to believe, that he has fled to Boston, in the State of Massachusetts.

ELIAS GUY,

Constable, Borough of Norfolk, Va.

NORFOLK BOROUGH, *December 5th, 1842.*

STATE OF VIRGINIA.

NORFOLK BOROUGH, to wit :

To Elias Guy or any other constable of the borough of Norfolk :

Whereas James B. Gray, of the borough of Norfolk, aforesaid, merchant, hath this day made information and complaint upon oath, by his affidavit duly sworn and subscribed before me, Miles King, mayor of the said borough of Norfolk in the State of Virginia, that on or about the twenty-fourth of September, eighteen hundred and forty-two, in the night, the store of him, the said James B. Gray, on Wide Water street, in the borough of Norfolk, aforesaid, was feloniously and burglariously broken open, and about twenty dollars in money and sundry pocket-books and hair-brushes, and other articles of the value of about fifteen dollars, of the goods and chattels of him, the said James B. Gray, feloniously and burglariously stolen, taken, and carried away from thence, and that he hath just cause to suspect, and doth suspect and verily believe, that George Latimer, a colored man, formerly held to service and labor with him, and owned by him as his slave, the said felony and burglary did commit: These are, therefore, in the name of the Commonwealth, to command and require you, that immediately upon sight hereof, you do apprehend the said George Latimer, and bring him before me, or some alderman of this borough, to answer the premises, and to be further dealt with according to law.

Given under my hand and seal, this third day of December, eighteen hundred and forty-two.

M. KING, *Mayor*. [Seal.]

The within-named George Latimer not found, and I am informed and have reason to believe, that he has fled to Boston, in the State of Massachusetts.

ELIAS GUY,

Constable, Borough of Norfolk, Va.

NORFOLK BOROUGH, *December 5th, 1842.*

STATE OF VIRGINIA.

BOROUGH OF NORFOLK, SC.

James B. Gray, of the borough of Norfolk, aforesaid, merchant, this day personally appeared before me, Miles King, mayor of the said borough of Norfolk, in the State of Virginia, and made oath on the Holy Bible, that George Latimer, charged before me on his oath with felony and burglary, in breaking open the store-house of him, the said James B. Gray, on Wide Water street, in said borough, on or about the first day of January, eighteen hundred and forty-two, and on or about the twenty-fourth day of September, eighteen hundred and forty-two, and for whose arrest I issued my two several warrants, dated the third day of December, instant, has fled to the State of Massachusetts and city of Boston, and that he verily believes that the said George Latimer is now at large in the State of Massachusetts.

Given under my hand and seal this fifth day of December, eighteen hundred and forty-two.

M. KING, *Mayor*. [Seal.]

The within a true copy. Attest,

JNO. A. BOLLES,

Secretary of the Commonwealth.

Commonwealth of Massachusetts.

COUNCIL CHAMBER, Boston, Dec. 1842.

*To the Honorable J. M. GREGORY,
Lt. Governor of Virginia :*

SIR,—I have received and examined the requisition and documents transmitted by you through your agent. You, as the executive authority of the Commonwealth of Virginia, demand one Latimer, represented to be a fugitive from the justice of that State. It is alleged that he broke and entered a building called a store-house, in Norfolk, and took therefrom money and goods, the property of James B. Gray. The affidavit of Mr. Gray is the foundation of the proceeding, and is the only document requiring notice, as it contains all the evidence there is of the perpetration of a crime.

The question to be considered is, Does this paper contain such a charge of felony, or other crime, as to impose upon the executive authority of Massachusetts the duty to issue a warrant for the arrest of Latimer, that he may be transported to Virginia to answer for the offence?

This must depend upon the provisions of the constitution and laws of the United States, which authorize, in certain cases, the demand, and require the surrender, of fugitives charged with crime.

The constitution provides, “that a person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.”

The law of Congress upon this subject declares, that when-

ever the executive authority of any State in the Union shall demand any person as a fugitive from justice, of the executive authority of any State to which such person shall have fled, and shall, moreover, produce the copy of an indictment found, or an affidavit made before a magistrate of any such State, charging the person so demanded with having committed treason, felony, or other crime, certified as authentic by the governor, or chief magistrate of the State from whence the person so charged fled, it shall the duty of the executive of the State to which such person shall have fled to cause him or her to be arrested and secured, &c.

Such is the substance of the provisions made in the constitution and law for the surrender of fugitives from justice. The constitution simply declares that a person charged with treason, felony, or other crime, shall, upon demand by the executive authority, be delivered up.

The law, in carrying out this provision, declares that the demand must be made upon the executive authority, and the copy of an indictment found, or an affidavit produced, charging the fugitive with having committed treason, felony, or other crime.

The proceeding is not one of ordinary occurrence, where the process issues in the ordinary way, and is committed to an officer to be served; but the application for a surrender is from a State to a State, through the executive authority, and an executive warrant is indispensable to an arrest. It was evidently considered a matter of high import, involving the sovereign rights of the States, and demanding such special provision that no step should be taken without the assent of the State, through its executive authority. The reason for this seems to be apparent in the fact that it is made the high duty of a State government to watch over the rights and privileges of the citizens, and to see that they enjoy the protection and security guaranteed by the laws. This process seeks to deprive persons in the enjoyment of these privileges of their liberty, to remove them to another jurisdiction, and to place them upon trial. It must have been obvious to the makers of the constitution and the law, that in a country of such vast dimensions as this, it would be no light or trivial matter to be removed from one remote

part to another, to be tried among strangers, for alleged offences. They must have anticipated, that such a power would be likely to be perverted and abused; and to guard against unjust, oppressive arrests, and the removal of persons under the protection of law upon frivolous and colorable pretences, they confided the matter to the executives of the States, requiring that the process should pass under their scrutiny, and the arrest depend upon their view of constitutional duty, thus invoking the States themselves to watch over the exercise of this power, and see that it is kept circumscribed within proper limits. These seem to me to have been the prevailing views of those who made the constitution and the law, and I infer that the power intended to be conferred upon the executive authority of a State is not nominal, but substantial—that the issuing of a warrant is not intended to be a mere ministerial act, a peremptory duty imposed upon the executive, in the discharge of which he can exercise no discretion, but is to depend upon a just interpretation of the constitution, and the law tending to restrain all abuse and perversion of the power.

The Constitution makes a charge of treason, felony or other crime the foundation of the right to make a demand, and of the obligation to deliver up a fugitive. The law superadds to the Constitution, that the demand must be sustained by the copy of an indictment found, or an affidavit made, before a magistrate, charging the person demanded with treason, felony or other crime. The case before me rests upon an affidavit, and the question is whether the charge of crime is such as to authorize an arrest.

An affidavit comes from no responsible authority, but is the voluntary act of any person who chooses to make it. It may as well be the offspring of base, malevolent, vindictive feelings, as of pure and honorable sentiments; it may as well spring from selfish, sinister, or corrupt motives as from a regard for a faithful administration of criminal justice. It is usually made by a party claiming to be aggrieved, and at the best, is weak evidence over which almost necessarily hangs a shade of distrust. It comes from a source unknown, and without any voucher for the respectability or truthful character of the affiant. Upon such a document, the executive authority of a state is

required to cause a person under the protection of the laws, to be arrested, that he may be removed to the state from whence the demand comes, to answer to the charge contained in it.

Taking into view all these circumstances, it is apparent to my mind, that such a process is open to great abuse, unless it is watched over with scrupulous care.

What then are the requisites of a charge contained in affidavit which authorize an arrest? The decision of this question is referred by the Constitution and the law to the executive authority; and when I take into view the probable motives which induced such a reference to the executive, the rights involved, and all the other circumstances which necessarily surround this process, I am satisfied that the charge, taken as a whole, should be full and clear, defining the crime, and embodying such facts, as necessarily raise a decided presumption of guilt; and I consider such facts as part of the charge, neither contained in one or more affidavits, in regard to which there is some variance of practice.

I cannot persuade myself that an affidavit in which it is merely alleged that a crime has been committed, and the affiant believes, or has reason to believe, that the person demanded, perpetrated it, is such a charge as the framers of the Constitution and the law anticipated. Such a construction would, in my belief, encourage abuses, work out injustice and oppression, and turn a salutary provision of the Constitution into an instrument of evil instead of good. It is difficult to assign any adequate motive for referring this matter to the executives of the states, if they are disarmed of all discretion, and are the mere ministerial agents of any and every affidavit-maker who can persuade an easy conscience that any one against whom he is moved by hatred, malice, revenge, or any other corrupt motive, is guilty of a crime. It appears to me, therefore, that when an affidavit does not contain a specification of such a crime as the Constitution provides for, and such proofs of probable guilt as, unexplained, would produce conviction, it does not contain such a charge as the Constitution and law require.

I am confirmed in this view of the subject from the facts which have, from time to time, come to my knowledge, tending to prove that the abuses do exist, which seem to have been

anticipated when the provisions were made which refer the papers in such cases to the consideration of the executives of the states.

In the commercial states, for example, the crime of cheating by false pretences is often the charge upon which a requisition is made, and is peculiarly liable to abuse. I have the best reason for believing that in many cases the complainants have been prompted by no regard for the administration of justice, but have sought for an executive warrant, intending to employ it as a means of intimidation to compel the payment of debts, and when the object has been accomplished, to drop the prosecution, if that could be effected. But when this did not succeed, and such persons have been brought to trial, they have generally been acquitted. I have also been made acquainted with an instance in which such a warrant was employed not only to compel the payment of a debt under the terrors of a penitentiary, but to extort a large sum of money under pretence of indemnifying the creditors for their trouble and expense, while there was scarcely a doubt of the innocence of the accused.

In many other ways I have had just reason to believe that this process has been employed, not in aid of criminal justice, but to effect selfish and censurable objects through the fears and alarm of the persons arrested.

From these considerations, I am convinced, that the people cannot be protected against an unwarrantable use of the process except by great vigilance, and exacting a charge which establishes a case of probable guilt; nor do I anticipate that this will wholly arrest the abuse.

If the executive may not do this, his power becomes nominal, and he and the State are disarmed of all authority to protect the citizens against arrests upon frivolous and colorable pretences.

It may be supposed that, inasmuch as the demand must be made by the executive authority of a state, that a requisition will not issue unless founded upon a sufficient charge of crime; but my observation does not justify such a conclusion; either through precipitancy, or from some other cause, it not unfrequently occurs that they issue greatly deficient both in form and substance.

Being governed by these views of the Constitution and laws, I will now examine the case before me, bringing it to the test of these principles.

The requisition rests on the affidavit of Mr. Gray, which contains the charge, including the specification of crime, and the evidence which sustains it. He infers the guilt of the accused from the facts which he states, and these being the essence of the whole matter, I have examined them with some attention, to ascertain whether that is a just inference, bringing the case within the Constitution and the law.

Mr. Gray, who is described as a merchant, states that on or about the 24th day of September, 1842, his storehouse in Norfolk was burglariously and feloniously broken open and entered in the night-time, and about \$20 in cash, and sundry articles of property to him belonging, taken, stolen and carried away; that among the articles were some pocket-books and hair-brushes. He then states that the said store had been broken open and entered three other times previous, and since the *first day of December*, 1841; that it was *first* broken and entered on or about the *first* day of January, 1842, at which time there were taken, stolen and carried away from his said storehouse about \$80 in money, and various other articles of value to him belonging, among which were a watch-key and pencil-case of silver, of the value of two dollars, which he recollects seeing in his store in the place where they are usually deposited, after he had closed his store, on the night in which it was *first* broken and entered; that shortly after the larceny committed on or about the 24th of September, 1842, he charged a colored man, named George Latimer, then held to service and labor with him and owned by him as his slave, with the commission of the last-mentioned larceny; soon after which the said George Latimer absconded and escaped to the State of Massachusetts and city of Boston; after his escape, he (Gray) searched the room in which said George Latimer slept, and there found, in the drawer of a table belonging to said George Latimer, two of the pocket-books and one of the hair-brushes which had been stolen when the storehouse had been broken open on or about the 24th of September, 1842; that the said George Latimer

was searched in Boston, and there were found on his person, and taken from his possession, the watch-key and silver pencil-case, which were stolen from his storehouse when it was broken and entered on or about the first day of January, 1842; and upon this state of facts Mr. Gray declares on oath, that he verily believes and doth charge, that the said George Latimer did break and enter his said storehouse on or about the 24th day of September, 1842, and steal therefrom about twenty dollars in money to him belonging, and various articles of the property of the affiant, of the value of about fifteen dollars, and among other things sundry pocket-books and hair-brushes; and that he further believes and charges, that the said George Latimer did break and enter his said storehouse on or about the first day of January, 1842, and did steal and convey away about eighty dollars in money belonging to the affiant, and various other articles of his property of the value at least of ten or twelve dollars, and among the articles so taken was the silver pencil-case and watch-key.

Such is the statement of Mr. Gray in his affidavit, which contains the charge, including the specification of the crime and the facts adduced to prove the guilt of the accused. He infers criminality, and I have examined his statement with some attention, to ascertain whether that inference is just, and the presumption of guilt so strong as to justify an arrest and delivery of the accused.

The proceedings of Mr. Gray in regard to Latimer have become matters of notoriety; and there can be no doubt, from events which subsequently occurred, that he returned from Boston to Norfolk with feelings greatly irritated with disappointment, representing himself to be aggrieved in other ways besides the loss of his property from his store. Under the impulse of a mind thus excited, and in a condition thus unfavorable to a calm, unbiassed, dispassionate view of the subject, he made this *ex parte* affidavit. Whether sentiments of indignation or resentment mingled with the transaction, I shall not presume to inquire; but these circumstances belong to the case and deserve consideration, in forming an opinion upon the contents of the affidavit. It is at least to be presumed that in such a state of

things, the affidavit would make as strong a case of guilt as the truth would justify.

Mr. Gray is a merchant at Norfolk, having, like other traders, a stock of goods for sale. Among these it appears he had pocket-books, hair-brushes, pencil-cases, and watch-keys. His store was broken open, and some of these goods, which appear to be, as far as I am able to judge, cheap articles, were stolen, and he avers his belief that Latimer is guilty of the larceny, because he found in his sleeping room two pocket-books and a hair-brush, and upon his person a watch-key and pencil-case.

In analyzing this statement, the character of the articles first merits consideration. They were all articles of personal convenience, such as almost every person, whatever may be his condition, possesses for his own accommodation. They seem to be cheap, and such as a person like Latimer might with propriety possess for his own use—and the number was no greater than the exigencies of any person demands, unless possibly two pocket-books might be deemed unnecessary. Next, there was no extraordinary circumstance in the disposition of them—the pencil-case and key being on his person, and kept in the same manner as others dispose of such articles when designed for their own convenience.

The hair-brush and pocket-books were discovered in a table drawer in his bed-room, which cannot be esteemed an unusual or unsuitable place of deposit, and I may say there does not appear to be any attempt at secrecy or concealment, but all the circumstances have, at least, the aspect of what is usual and customary.

The mere fact, therefore, that Latimer possessed, and kept, in the manner described, so many of such articles, as were appropriate for his use, unless connected with other circumstances, can have little tendency to awaken suspicions of guilt.

Mr. Gray does go a step further, and expresses his conviction that the articles discovered are part of the goods stolen. This conviction, however, does not appear to spring from any known marks of identity upon the articles, by which he was able to recognize them, but from the fact that goods for sale

were similar. If this is all his knowledge, and it cannot be presumed that he has more, it falls far short of identifying articles, which are every where for sale, and often so nearly resembling each other as to require careful scrutiny to distinguish them : all these articles are greatly multiplied after the same patterns and fashions, and are to be found in almost any shop for sale. The similarity, therefore, of such articles is as uncertain proof of identity as the similarity of bank notes or coins. If one loses or is robbed of notes or coins of a particular description, and another has those which are similar, it by no means follows, that such a fact raises any presumption of guilt, for they may or may not be those which have been lost, and this must depend on other evidence.

Mr. Gray, however, further states, that shortly after the theft committed about the 24th of September, he accused Latimer of it, and soon afterwards (he does not say how soon,) he absconded.

There does not appear to be any thing remarkable in such an act under the circumstances which existed. Latimer was charged with theft by his master, the only person to whom he had any right to look for protection, and this might well excite a degree of alarm which would induce him to flee whether guilty or innocent. It appears also, that the brush and pocket-books were discovered after his departure ; whether an earlier search was made does not appear ; but, as the master had the power and the right both to search the person and premises of the slave, it seems singular, if such was the fact, that it should be delayed till after the flight, and it is no less singular, that Latimer, if guilty, should, after he had been accused, place the stolen articles where detection, by discovery, would be almost inevitable, especially when the property could with great facility be concealed or destroyed.

The facts connected with this discovery, as detailed in the affidavit, are so difficult to reconcile with the motives of action which govern the guilty, and may be accounted for in so many other ways, quite as satisfactorily, that I cannot help thinking that the inference drawn by Mr. Gray, inculpating Latimer, rests on doubtful premises.

It is also to be remembered, that of all the property stolen, nothing has been discovered, unless those little articles were part of it; and it is somewhat remarkable, if Latimer is guilty, that the discovery should be limited to these, if he kept stolen property in such a careless manner. But, without dwelling longer upon the affidavit, I will advert to another circumstance connected with this felony.

On the 19th of October last, a complaint for larceny was made to the police court of Boston, against Latimer, for stealing and conveying away goods and money, the property of Samuel B. Gray, which theft is alleged to have been committed at Boston, on the 20th October. Another complaint was made against him, in which the same articles are alleged to be the property of James B. Gray, and the larceny is alleged to have taken place at Norfolk. While these complaints appear to me to be designed to cover the same felony described in the affidavits, they vary from it in some particulars, which are material, among which I do not mean to include the allegation that the goods were taken at Boston. The only point of view in which these complaints have a bearing, rests on the belief that the information upon which they are made must have been derived from Mr. Gray. If such is the fact, he may be able to harmonize them with the affidavit, by rendering a satisfactory account of the apparent discrepancies. I have now drawn your attention, at greater length than I proposed in the outset, to the contents of the affidavit and the facts connected with it, and you have already anticipated my opinion, that the charge is not such as to authorize the arrest and surrender of Latimer. The principle involved is one of great interest to the citizens of all the States; for whatever rule is applied to the humble individual demanded, should be the rule in all cases; and the measure of protection meted out to him, should be the limit of right in others. In commenting upon this case, I beg you to understand that it is no part of my purpose to question the integrity of purpose, or the purity of the councils of any State, or to impugn the character of any individual, but to speak of facts and occurrences without reference to motives. The tendency has been so strong to multiply these demands, and they

come in such questionable forms, that I have felt it to be my duty, in repeated instances, to decline compliance—believing that it was never the design of the Constitution to subject the people to this process for trivial offences, or upon demands which contain no charge raising a presumption of guilt. I am persuaded that nothing short of this can protect them against oppressive arrests.

I have the honor to be,

Your Excellency's most obt. serv't,

J. DAVIS.

A true copy. Attest.

JNO. A. BOLLES,
Secretary of the Commonwealth.

To the Justices of our Police Court of the city of Boston, within and for our county of Suffolk. Elbridge G. Austin, of said Boston, Esquire, in behalf of the Commonwealth of Massachusetts, on oath informs said justices, that within three weeks last past, in the year of our Lord one thousand eight hundred and forty-two, at the city of Boston, in the county of Suffolk, the following goods, to wit :

36 dollars in halves and quarters and half dimes, . . .	\$36
A quantity of goods taken from glass-case, to wit :	
Pencil-cases, hair-brushes, pocket-books, . . .	10
A quantity of groceries, consisting of coffee, sugar	
and liquor,	25
1 silver watch,	15
In cents,	15
Drawer and money,	11

Of the value of one hundred and twelve dollars and cents of the goods and chattels of Samuel B. Gray, and in his possession then and there being, were feloniously stolen, taken and carried away, against the peace of said Commonwealth, and the form of the statute in such case made and provided. And the said Austin has probable cause to believe, and does believe, that George Latimore, otherwise called Albert Nason, of said Boston, laborer, did steal and carry away the goods aforesaid.

E. G. AUSTIN.

SUFFOLK, to wit :

Received, and sworn to the nineteenth day of October, in the year of our Lord, one thousand eight hundred and forty-two.

Before said court,

THOS. POWER, *Clerk.*

SUFFOLK, to wit:

COMMONWEALTH OF MASSACHUSETTS.

[L. S.] *To the Sheriff of our county of Suffolk, his deputies,
the constables and police officers of our city of
Boston,*

Greeting : We command you and each of you, upon sight hereof, to take and bring before our police court of the city of Boston, within and for the county of Suffolk, the body of George Latimore, otherwise called Albert Nason, of Boston, aforesaid, laborer, if to be found within your precinct, to answer to the Commonwealth on the complaint of Elbridge G. Austin, of said Boston, Esquire, this day made on oath before our said court, for larceny, of goods valued at \$112, as set forth in the complaint aforesaid, against the peace of said Commonwealth and the form of the statute, in such case made and provided.

Hereof fail not at your peril.

Witness, William Simmons, esquire, at Boston, this nineteenth day of October, in the year of our Lord one thousand eight hundred and forty-two.

THOS. POWER, *Clerk.*

SUFFOLK, SS. BOSTON, *October 19, 1842.*

By virtue of the within precept, I arrested the within-named defendant, and committed him to jail, and now, this 20th day of October, I have not brought him before the court, having been summoned to appear before the justices of the supreme judicial court, on a writ of *habeas corpus*, to show cause why I have the above-named defendant in my custody.

JONAS STRATTON, *Constable.*

Dismissed on motion of complainant, October 20th.

To the Justices of the Police Court of the city of Boston, within and for the county of Suffolk, Elbridge G. Austin, Esquire, of the city of Boston, in the county of Suffolk, in behalf of the Commonwealth of Massachusetts, on oath complains,

That George Latimore, otherwise called Albert Nason, of the city of Boston, in county of Suffolk, laborer, within three weeks last past, at Norfolk, in the State of Virginia, did feloniously steal and carry away from one James B. Gray, the property of said Gray, the following goods, to wit :

Silver coin, valued at	\$36
Pencil-cases, hair-brushes and pocket-books, valued at 10	
Coffee, sugar and liquor	25
Silver watch	15
Copper coin	15
Drawer and money	11
	<hr/>
	\$112

All of the value of one hundred and twelve dollars, and that said Latimore is now a fugitive from justice from said State of Virginia, and is now in Boston, against the peace of said Commonwealth, and the form of the statute in such case made and provided.

E. G. AUSTIN.

SUFFOLK, to wit :

Taken and sworn to this twentieth day of October, in the year of our Lord one thousand eight hundred and forty-two.

Before said court,

THOS. POWER, *Clerk.*

SUFFOLK, to wit :

COMMONWEALTH OF MASSACHUSETTS.

[L. S.] *To the Sheriff of our county of Suffolk, his deputies,
the constables and police officers of our city of
Boston,*

Greeting : We command you and each of you, upon sight hereof, to take and bring before our police court, of the city of Boston, within and for the county of Suffolk, the body of George Latimore, otherwise called Albert Nason of Boston, afore-said, laborer, if to be found within your precinct, to answer to the Commonwealth, on the complaint of Elbridge G. Austin, of said Boston, Esquire, this day made on oath before our said court, for larceny in the State of Virginia, of property valued at \$112, and being a fugitive from justice, is now in said Boston, against the peace of said Commonwealth, and the form of the statute in such case made and provided. Hereof fail not, at your peril.

Witness : William Simmons, Esquire, at Boston, this twentieth day of October, in the year of our Lord, one thousand eight hundred and forty-two.

Clerk.

Return signed by Jonas Stratton, of defendant to complainant, Oct. 20.

Discharged, on motion of complainant, Oct. 31.

A true copy. Attest,

JNO. A. BOLLES,
Secretary of the Commonwealth.





